

# Election Reform

As long as elections put people into positions where they can make decisions about how much the government will spend, who will receive the money or benefits, and how the government will exercise its power, elections will be important enough to tempt some individuals to steal them. Examples abound, from an election in New York in 1844 in which 135 percent of the eligible voters turned out to Lyndon Johnson's infamous Ballot Box 13 in his 1948 Senate election. The *Miami Herald* won a Pulitzer Prize for its investigative reporting of voter fraud in the 1997 mayor's race in Miami, an election that was overturned because of more than 5,000 fraudulent absentee ballots. Even more recently, a mayoral election in East Chicago, Indiana, in 2003 and a state senate race in Tennessee in 2005 were overturned due to voter fraud. ACORN has had numerous employees convicted for voter registration fraud. As the U.S. Supreme Court recognized when it upheld the constitutionality of Indiana's voter identification law in 2008, flagrant examples of voter fraud "have been documented throughout this Nation's history by respected historians and journalists." Those examples "demonstrate that not only is the risk of voter fraud real but that it could affect the outcome of a close election." (See *Crawford v. Marion County Election Board*, 128 S.Ct. 1610, 1619 (2008).)

Despite such extensive evidence, however, many partisan activists, liberal academics, and media elites deny that voter fraud exists or that any steps need to be taken to protect the integrity of our election process. However, the Commission on Federal Election Reform, chaired by former President Jimmy Carter and former Secretary of State James A. Baker III, profoundly disagreed. The eminent and non-partisan commission found that our "electoral system cannot inspire public confidence if no safeguards exist to deter or detect fraud or to confirm the identity of voters."

The right to vote in a free and fair election is the most basic civil right, on which depends many of the other rights of the American people. There are a number of steps that can be taken by Congress and the states to guarantee that every individual who is eligible is able to vote and that his vote is not stolen by a fraudulent vote.

## Notes

## RECOMMENDATIONS

### Federal Policy

- 1. Require all voters in federal elections to present photographic identification, issued by the federal, state, or local government, when they vote at their polling place, or to send copies of such identification when submitting an absentee ballot.** As explained below, such ID should be provided free of charge to those who request it for voting purposes.
- 2. Make all federal databases at the Social Security Administration and the immigration and customs divisions at the Department of Homeland Security available to state election officials to verify the citizenship status of registered voters.**
- 3. Require all federal courts to notify state election officials when individuals whose names are drawn from their registration rolls are excused from jury duty because they claim they are not U.S. citizens.**
- 4. Amend the National Voter Registration Act of 1993 to allow states to purge individuals who have not voted in two federal elections as long as they have been sent written notice warning them that they will be removed unless they contact election officials within a certain period of time.**
- 5. Sunset the U.S. Election Assistance Commission, a federal agency created by the Help America Vote Act of 2002 (HAVA) to administer a one-time grant of federal funds to the states.** The EAC has no regulatory authority, but having this unneeded federal agency in place will tempt Congress in the future to provide it with expanded authority to impose federal mandates through federal regulations, which could lead eventually to the complete takeover of the election process by the federal government.
- 6. Facilitate voting by overseas members of the military by requiring that all absentee ballots being sent to overseas voters be mailed by states at least 45 days prior to the election deadline or alternatively by express mail or electronic means so the ballots will be received by voters in time to be returned.** The Department of Defense should also provide for express mail return of completed absentee ballots from overseas military installations.

## State Policy

**1. Require all voters to present photographic identification, issued by the federal, state, or local government, when they vote at their polling place, or to send copies of such identification when submitting an absentee ballot.**

Any individual who does not have identification should be entitled to receive it free from state authorities. Both academic studies and election results show that identification requirements do not depress the turnout of voters, including eligible minority voters. The vast majority of voters of all parties and all races and ethnic backgrounds support such a requirement, and it increases public confidence in the integrity of elections.

**2. Require all individuals who register to vote to provide documentation establishing that they are United States citizens.**

Individuals who are not U.S. citizens can easily register and vote without detection. States have an interest in preventing dilution of the votes of their citizens at the state level and must maintain citizen-only voting rolls for federal elections.

**3. Require state and local election officials to verify the accuracy of new voter registration information against other available state and federal databases.**

Section 303 of HAVA requires states to coordinate their voter registration lists with “other agency databases” and to “verify the accuracy of the information provided on applications for voter registration.” However, some election officials are not complying with the federal law and are not verifying new voter registration information against other available databases such as Department of Motor Vehicles (DMV) driver’s license records and Social Security Administration records. Only by implementing this requirement as a state law can legislators ensure that their state election officials will follow this commonsense requirement.

**4. Require an individual who registers by mail to vote in person the first time they vote.**

States are specifically allowed to implement such a requirement by Section 6 of the National Voter Registration Act, although it cannot apply to any voter entitled to vote by absentee ballot or other than in person under the Uniformed and Overseas Citizens Absentee Voting Act or the Voting Accessibility of the Elderly and Handicapped Act.

**5. Require all individuals who register to vote through the use of mail-in forms, whether they are mailed back to election officials or hand-delivered by the individual or third-party organizations, to comply with the applicable HAVA provision.**

HAVA requires persons who register to vote by mail who have not previously voted in a federal election to provide a copy of certain identification documents when they register or when they vote for the first time. Unfortunately, some states have interpreted this federal requirement to apply only to voter registration forms received through the mail and not to such forms delivered through other means.

**6. Require all third-party organizations (like ACORN) that conduct voter registration drives to put the name of their organization and the volunteer or employee handling each registration on the voter registration form and require all completed forms to be returned to election officials by such organizations within ten days of the date the forms are executed by the voter.** This will allow election officials to identify which organization and individual handled voter registration forms that are found to be incomplete or fraudulent as well as ensuring that completed registration forms are provided to election officials on a timely basis so they can be properly processed before the state's pre-election registration deadline.

**7. Facilitate voting by overseas members of the military by requiring that all absentee ballots being sent to overseas voters be mailed at least 45 days prior to the election deadline or alternatively by express mail or electronic means so the ballots will be received by voters in time to be returned.** The long transit times for overseas mail have led to the disfranchisement of many military personnel stationed overseas, particularly those in combat zones in Afghanistan and Iraq. States should also allow absentee ballot request forms to be sent to election officials by facsimile or as a scanned attachment to an e-mail.

**8. Require all state courts to notify election officials when individuals whose names are drawn from the registration rolls are excused from jury duty because they claim they are not U.S. citizens or no longer live in the jurisdiction.** This will allow local election officials to remove ineligible voters and refer them for possible prosecution. Running data comparisons between voter registration addresses and property tax rolls is also recommended to detect individuals who are illegally registering at commercial addresses or vacant lots.

**9. Require the state to enter into agreements with other states, especially neighboring states, to compare voter registration lists to find voters who are registered in more than one state.** Because there is no national voter registration list, it is relatively easy for individuals to register in more than one state without detection. Regional agreements would be a good start to detecting (and deterring) double registration and possible double voting.

## FACTS AND FIGURES

- The Constitution reserves to the states the exclusive authority for most election decisions, including voter qualifications, except that Congress may alter “[t]he Times, Places and Manner of holding Elections” for Congress and may set the “Time” for choosing electors and the “Day” on which they cast their votes for President.
- Both the federal government and state governments have a shared responsibility to ensure the security and integrity of the election process.
- The evidence of voter fraud from specific cases shows what types of laws and regulations are most effective in preventing and deterring fraud.
- A grand jury report released in New York in 1984 that details extensive voter registration fraud and impersonation fraud at the polls that was successfully carried out for 14 years in state and federal elections shows the importance of both verifying the accuracy of voter registration information and requiring photographic identification from voters.
- A grand jury report released in Chicago that described an extensive system of voter registration fraud and vote theft that resulted in 100,000 fraudulent votes being cast in the 1982 election also demonstrates the importance of such measures. Additionally, the U.S. Attorney estimated there were at least 80,000 illegal aliens registered in Chicago who were also voting, illustrating the problem of non-citizen voting. Many other states have had similar problems with non-citizen voting.
- A report by the Milwaukee Police Department of its investigation of the 2004 election that included a comparison of the voter registration list with other records such as motor vehicle records, telephone directories, Assessor’s Office records, and U.S. Postal Service records detailed numerous problems such as ineligible felons and nonresidents (including individuals from out of state) registering and voting, as well as voters registered at commercial addresses that were clearly not residences.

## ADDITIONAL RESOURCES

Hans A. von Spakovsky, "Democracy in Danger: Case Studies of Election Fraud," Heritage Foundation *Special Report* No. 24, October 27, 2008, at <http://www.heritage.org/Research/LegalIssues/sr24.cfm>

Hans A. von Spakovsky, "Voter ID Was a Success in November," *The Wall Street Journal*, January 30, 2009, at <http://online.wsj.com/article/SB123327839569631609.html>

John Fund, *Stealing Elections: How Voter Fraud Threatens Our Democracy* (New York: Encounter Books, 2008)

Tracy Campbell, *Deliver the Vote: A History of Election Fraud, and American Political Tradition – 1742–2004* (New York: Carroll & Graf Publishers, 2005)

Larry J. Sabato and Glenn R. Simpson, *Dirty Little Secrets: A Persistence of Corruption in American Politics* (New York: Random House, 1996)

Hans A. von Spakovsky, "Requiring Identification by Voters," Testimony Before the Texas Senate, March 10, 2009, at <http://www.heritage.org/Research/LegalIssues/tst032309b.cfm>

David B. Muhlhausen and Keri Weber Sikich, "New Analysis Shows Voter Identification Laws Do Not Reduce Turnout," Heritage Foundation *Center for Data Analysis Report* No. 07-04, September 11, 2007, at <http://www.heritage.org/Research/LegalIssues/cda07-04.cfm>

Hans A. von Spakovsky, "America's Military Voters: Re-enfranchising the Disenfranchised," Heritage Foundation *Legal Memorandum* No. 45, July 28, 2009, at <http://www.heritage.org/Research/LegalIssues/lm0045.cfm>

Hans A. von Spakovsky, "Democracy in Danger: What States Can Do to Safeguard America's Election System," Heritage *Lecture* No. 1129, August 11, 2009, at <http://www.heritage.org/Research/GovernmentReform/hl1129.cfm>

## HERITAGE EXPERTS



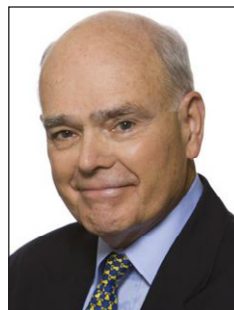
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